



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2876

Introduced 2/15/2008, by Sen. Michael Noland

SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois. Provides that no electronic check may be drawn on nor any electronic withdrawal made from commercial checking accounts maintained by the Director of Revenue by any secure online, Internet, or web-based banking methods or procedures except on the written approval of 2 or more persons designated and authorized by the Director to make such electronic checks or electronic withdrawals. Increases amounts that the Director may keep in such accounts. Amends the State Finance Act to allow the Department of Revenue to maintain a petty cash fund of not exceeding \$2,000 (was, \$1,000). Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act to extend the statute of limitations on certain violations of the Acts from 3 years after the commission of the act to 6 years after the commission of the act. Amends the Coin-Operated Amusement Device and Redemption Machine Tax Act. Makes changes regarding the imposition of the privilege tax and in penalty provisions. Amends the Uniform Penalty and Interest Act. Imposes a penalty for failure to file a transaction reporting return required under specified provisions of the Retailers' Occupation Tax Act and the Use Tax Act. Amends the Criminal Code of 1961 to make changes in the definition of "redemption machine". Makes other changes. Effective immediately.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-310 as follows:

7 (20 ILCS 2505/2505-310) (was 20 ILCS 2505/39b15.2)

8 Sec. 2505-310. Obtaining evidence. The Department has the
9 power to expend sums that the Director deems necessary from
10 contractual services appropriations for the purchase of
11 evidence and for the employment of persons to obtain evidence.
12 The sums shall be advanced to investigators authorized by the
13 Director to expend funds, on vouchers signed by the Director.

14 In addition, the Director is authorized to maintain one or
15 more commercial checking accounts with any State banking
16 corporation or corporations organized under or subject to the
17 Illinois Banking Act for the deposit and withdrawal of moneys
18 to be used solely for the purchase of evidence and for the
19 employment of persons to obtain evidence. No check may be
20 written on nor any withdrawal made from such an account except
21 on the written signature of 2 persons designated by the
22 Director to write those checks and make those withdrawals. No
23 electronic check may be drawn on nor any electronic withdrawal

1 made from such account by any secure online, Internet, or
2 web-based banking methods or procedures except on the written
3 approval of 2 or more persons designated and authorized by the
4 Director to make such electronic checks or electronic
5 withdrawals. The balance of moneys on deposit in any such
6 account shall not exceed \$25,000 ~~\$5,000~~ at any time, nor shall
7 any one check written on or single withdrawal made from any
8 such account exceed \$25,000 ~~\$5,000~~.

9 (Source: P.A. 91-239, eff. 1-1-00.)

10 Section 10. The State Finance Act is amended by changing
11 Section 13.3 as follows:

12 (30 ILCS 105/13.3) (from Ch. 127, par. 149.3)

13 Sec. 13.3. Petty cash funds; purchasing cards.

14 (a) Any State agency may establish and maintain petty cash
15 funds for the purpose of making change, purchasing items of
16 small cost, payment of postage due, and for other nominal
17 expenditures which cannot be administered economically and
18 efficiently through customary procurement practices.

19 Petty cash funds may be established and maintained from
20 moneys which are appropriated to the agency for Contractual
21 Services. In the case of an agency which receives a single
22 appropriation for its ordinary and contingent expenses, the
23 agency may establish a petty cash fund from the appropriated
24 funds.

1 Before the establishment of any petty cash fund, the agency
2 shall submit to the State Comptroller a survey of the need for
3 the fund. The survey shall also establish that sufficient
4 internal accounting controls exist. The Comptroller shall
5 investigate such need and if he determines that it exists and
6 that adequate accounting controls exist, shall approve the
7 establishment of the fund. The Comptroller shall have the power
8 to revoke any approval previously made under this Section.

9 Petty cash funds established under this Section shall be
10 operated and maintained on the imprest system and no fund shall
11 exceed \$1,000, except that the Department of Revenue may
12 maintain a fund not exceeding \$2,000 for each Department of
13 Revenue facility and the Secretary of State may maintain a fund
14 of not exceeding \$2,000 for each Chicago Motor Vehicle
15 Facility, each Springfield Public Service Facility, and the
16 Motor Vehicle Facilities in Champaign, Decatur, Marion,
17 Naperville, Peoria, Rockford, Granite City, Quincy, and
18 Carbondale, to be used solely for the purpose of making change.
19 Except for purchases made by procurement card as provided in
20 subsection (b) of this Section, single transactions shall be
21 limited to amounts less than \$50, and all transactions
22 occurring in the fund shall be reported and accounted for as
23 may be provided in the uniform accounting system developed by
24 the State Comptroller and the rules and regulations
25 implementing that accounting system. All amounts in any such
26 fund of less than \$1,000 but over \$100 shall be kept in a

1 checking account in a bank, or savings and loan association or
2 trust company which is insured by the United States government
3 or any agency of the United States government, except that in
4 funds maintained in each Department of Revenue Facility,
5 Chicago Motor Vehicle Facilities, each Springfield Public
6 Service Facility, and the Motor Vehicle Facilities in
7 Champaign, Decatur, Marion, Naperville, Peoria, Rockford,
8 Granite City, Quincy, and Carbondale, all amounts in the fund
9 may be retained on the premises of such facilities.

10 No bank or savings and loan association shall receive
11 public funds as permitted by this Section, unless it has
12 complied with the requirements established pursuant to Section
13 6 of "An Act relating to certain investments of public funds by
14 public agencies", approved July 23, 1943, as now or hereafter
15 amended.

16 An internal audit shall be performed of any petty cash fund
17 which receives reimbursements of more than \$5,000 in a fiscal
18 year.

19 Upon succession in the custodianship of any petty cash
20 fund, both the former and successor custodians shall sign a
21 statement, in triplicate, showing the exact status of the fund
22 at the time of the transfer. The original copy shall be kept on
23 file in the office wherein the fund exists, and each signer
24 shall be entitled to retain one copy.

25 (b) The Comptroller may provide by rule for the use of
26 purchasing cards by State agencies to pay for purchases that

1 otherwise may be paid out of the agency's petty cash fund. Any
2 rule adopted hereunder shall impose a single transaction limit,
3 which shall not be greater than \$500.

4 The rules of the Comptroller may include but shall not be
5 limited to:

6 (1) standards for the issuance of purchasing cards to
7 State agencies based upon the best interests of the State;

8 (2) procedures for recording purchasing card
9 transactions within the State accounting system, which may
10 provide for summary reporting;

11 (3) procedures for auditing purchasing card
12 transactions on a post-payment basis;

13 (4) standards for awarding contracts with a purchasing
14 card vendor to acquire purchasing cards for use by State
15 agencies; and

16 (5) procedures for the Comptroller to charge against
17 State agency appropriations for payment of purchasing card
18 expenditures without the use of the voucher and warrant
19 system.

20 (c) As used in this Section, "State agency" means any
21 department, officer, authority, public corporation,
22 quasi-public corporation, commission, board, institution,
23 State college or university, or other public agency created by
24 the State, other than units of local government and school
25 districts.

26 (Source: P.A. 90-33, eff. 6-27-97; 91-704, eff. 7-1-00.)

1 Section 15. The Use Tax Act is amended by changing Section
2 14 as follows:

3 (35 ILCS 105/14) (from Ch. 120, par. 439.14)

4 Sec. 14. When the amount due is under \$300, any person
5 subject to the provisions hereof who fails to file a return, or
6 who violates any other provision of Section 9 or Section 10
7 hereof, or who fails to keep books and records as required
8 herein, or who files a fraudulent return, or who wilfully
9 violates any rule or regulation of the Department for the
10 administration and enforcement of the provisions hereof, or any
11 officer or agent of a corporation or manager, member, or agent
12 of a limited liability company subject hereto who signs a
13 fraudulent return filed on behalf of such corporation or
14 limited liability company, or any accountant or other agent who
15 knowingly enters false information on the return of any
16 taxpayer under this Act, or any person who violates any of the
17 provisions of Sections 3, 5 or 7 hereof, or any purchaser who
18 obtains a registration number or resale number from the
19 Department through misrepresentation, or who represents to a
20 seller that such purchaser has a registration number or a
21 resale number from the Department when he knows that he does
22 not, or who uses his registration number or resale number to
23 make a seller believe that he is buying tangible personal
24 property for resale when such purchaser in fact knows that this

1 is not the case, is guilty of a Class 4 felony.

2 Any person who violates any provision of Section 6 hereof,
3 or who engages in the business of selling tangible personal
4 property at retail after his Certificate of Registration under
5 this Act has been revoked in accordance with Section 12 of this
6 Act, is guilty of a Class 4 felony. Each day any such person is
7 engaged in business in violation of Section 6, or after his
8 Certificate of Registration under this Act has been revoked,
9 constitutes a separate offense.

10 When the amount due is under \$300, any person who accepts
11 money that is due to the Department under this Act from a
12 taxpayer for the purpose of acting as the taxpayer's agent to
13 make the payment to the Department, but who fails to remit such
14 payment to the Department when due is guilty of a Class 4
15 felony. Any such person who purports to make such payment by
16 issuing or delivering a check or other order upon a real or
17 fictitious depository for the payment of money, knowing that it
18 will not be paid by the depository, shall be guilty of a
19 deceptive practice in violation of Section 17-1 of the Criminal
20 Code of 1961, as amended.

21 When the amount due is \$300 or more any person subject to
22 the provisions hereof who fails to file a return or who
23 violates any other provision of Section 9 or Section 10 hereof
24 or who fails to keep books and records as required herein or
25 who files a fraudulent return, or who wilfully violates any
26 rule or regulation of the Department for the administration and

1 enforcement of the provisions hereof, or any officer or agent
2 of a corporation or manager, member, or agent of a limited
3 liability company subject hereto who signs a fraudulent return
4 filed on behalf of such corporation or limited liability
5 company, or any accountant or other agent who knowingly enters
6 false information on the return of any taxpayer under this Act
7 or any person who violates any of the provisions of Sections 3,
8 5 or 7 hereof or any purchaser who obtains a registration
9 number or resale number from the Department through
10 misrepresentation, or who represents to a seller that such
11 purchaser has a registration number or a resale number from the
12 Department when he knows that he does not or who uses his
13 registration number or resale number to make a seller believe
14 that he is buying tangible personal property for resale when
15 such purchaser in fact knows that this is not the case, is
16 guilty of a Class 3 felony.

17 When the amount due is \$300 or more any person who accepts
18 money that is due to the Department under this Act from a
19 taxpayer for the purpose of acting as the taxpayer's agent to
20 make the payment to the Department, but who fails to remit such
21 payment to the Department when due is guilty of a Class 3
22 felony. Any such person who purports to make such payment by
23 issuing or delivering a check or other order upon a real or
24 fictitious depository for the payment of money, knowing that it
25 will not be paid by the depository shall be guilty of a
26 deceptive practice in violation of Section 17-1 of the Criminal

1 Code of 1961, as amended.

2 Any seller who collects or attempts to collect use tax
3 measured by receipts which such seller knows are not subject to
4 use tax, or any seller who knowingly over-collects or attempts
5 to over-collect use tax in a transaction which is subject to
6 the tax that is imposed by this Act, shall be guilty of a Class
7 4 felony for each such offense. This paragraph does not apply
8 to an amount collected by the seller as use tax on receipts
9 which are subject to tax under this Act as long as such
10 collection is made in compliance with the tax collection
11 brackets prescribed by the Department in its Rules and
12 Regulations.

13 Any taxpayer or agent of a taxpayer who with the intent to
14 defraud purports to make a payment due to the Department by
15 issuing or delivering a check or other order upon a real or
16 fictitious depository for the payment of money, knowing that it
17 will not be paid by the depository, shall be guilty of a
18 deceptive practice in violation of Section 17-1 of the Criminal
19 Code of 1961, as amended.

20 A prosecution for any act in violation of this Section may
21 be commenced at any time within 6 ~~3~~ years of the commission of
22 that Act.

23 This Section does not apply if the violation in a
24 particular case also constitutes a criminal violation of the
25 Retailers' Occupation Tax Act.

26 (Source: P.A. 88-480.)

1 Section 20. The Service Use Tax Act is amended by changing
2 Section 15 as follows:

3 (35 ILCS 110/15) (from Ch. 120, par. 439.45)

4 Sec. 15. When the amount due is under \$300, any person
5 subject to the provisions hereof who fails to file a return, or
6 who violates any other provision of Section 9 or Section 10
7 hereof, or who fails to keep books and records as required
8 herein, or who files a fraudulent return, or who wilfully
9 violates any Rule or Regulation of the Department for the
10 administration and enforcement of the provisions hereof, or any
11 officer or agent of a corporation, or manager, member, or agent
12 of a limited liability company, subject hereto who signs a
13 fraudulent return filed on behalf of such corporation or
14 limited liability company, or any accountant or other agent who
15 knowingly enters false information on the return of any
16 taxpayer under this Act, or any person who violates any of the
17 provisions of Sections 3 and 5 hereof, or any purchaser who
18 obtains a registration number or resale number from the
19 Department through misrepresentation, or who represents to a
20 seller that such purchaser has a registration number or a
21 resale number from the Department when he knows that he does
22 not, or who uses his registration number or resale number to
23 make a seller believe that he is buying tangible personal
24 property for resale when such purchaser in fact knows that this

1 is not the case, is guilty of a Class 4 felony.

2 Any person who violates any provision of Section 6 hereof,
3 or who engages in the business of making sales of service after
4 his Certificate of Registration under this Act has been revoked
5 in accordance with Section 12 of this Act, is guilty of a Class
6 4 felony. Each day any such person is engaged in business in
7 violation of Section 6, or after his Certificate of
8 Registration under this Act has been revoked, constitutes a
9 separate offense.

10 When the amount due is under \$300, any person who accepts
11 money that is due to the Department under this Act from a
12 taxpayer for the purpose of acting as the taxpayer's agent to
13 make the payment to the Department, but who fails to remit such
14 payment to the Department when due is guilty of a Class 4
15 felony. Any such person who purports to make such payment by
16 issuing or delivering a check or other order upon a real or
17 fictitious depository for the payment of money, knowing that it
18 will not be paid by the depository, shall be guilty of a
19 deceptive practice in violation of Section 17-1 of the Criminal
20 Code of 1961, as amended.

21 When the amount due is \$300 or more, any person subject to
22 the provisions hereof who fails to file a return, or who
23 violates any other provision of Section 9 or Section 10 hereof,
24 or who fails to keep books and records as required herein or
25 who files a fraudulent return, or who willfully violates any
26 rule or regulation of the Department for the administration and

1 enforcement of the provisions hereof, or any officer or agent
2 of a corporation, or manager, member, or agent of a limited
3 liability company, subject hereto who signs a fraudulent return
4 filed on behalf of such corporation or limited liability
5 company, or any accountant or other agent who knowingly enters
6 false information on the return of any taxpayer under this Act,
7 or any person who violates any of the provisions of Sections 3
8 and 5 hereof, or any purchaser who obtains a registration
9 number or resale number from the Department through
10 misrepresentation, or who represents to a seller that such
11 purchaser has a registration number or a resale number from the
12 Department when he knows that he does not, or who uses his
13 registration number or resale number to make a seller believe
14 that he is buying tangible personal property for resale when
15 such purchaser in fact knows that this is not the case, is
16 guilty of a Class 3 felony.

17 When the amount due is \$300 or more, any person who accepts
18 money that is due to the Department under this Act from a
19 taxpayer for the purpose of acting as the taxpayer's agent to
20 make the payment to the Department, but who fails to remit such
21 payment to the Department when due is guilty of a Class 3
22 felony. Any such person who purports to make such payment by
23 issuing or delivering a check or other order upon a real or
24 fictitious depository for the payment of money, knowing that it
25 will not be paid by the depository, shall be guilty of a
26 deceptive practice in violation of Section 17-1 of the Criminal

1 Code of 1961, as amended.

2 Any serviceman who collects or attempts to collect Service
3 Use Tax measured by receipts or selling prices which such
4 serviceman knows are not subject to Service Use Tax, or any
5 serviceman who knowingly over-collects or attempts to
6 over-collect Service Use Tax in a transaction which is subject
7 to the tax that is imposed by this Act, shall be guilty of a
8 Class 4 felony for each offense. This paragraph does not apply
9 to an amount collected by the serviceman as Service Use Tax on
10 receipts or selling prices which are subject to tax under this
11 Act as long as such collection is made in compliance with the
12 tax collection brackets prescribed by the Department in its
13 Rules and Regulations.

14 Any taxpayer or agent of a taxpayer who with the intent to
15 defraud purports to make a payment due to the Department by
16 issuing or delivering a check or other order upon a real or
17 fictitious depository for the payment of money, knowing that it
18 will not be paid by the depository, shall be guilty of a
19 deceptive practice in violation of Section 17-1 of the Criminal
20 Code of 1961, as amended.

21 A prosecution for any Act in violation of this Section may
22 be commenced at any time within 6 ~~3~~ years of the commission of
23 that Act.

24 This Section does not apply if the violation in a
25 particular case also constitutes a criminal violation of the
26 Retailers' Occupation Tax Act, the Use Tax Act or the Service

1 Occupation Tax Act.

2 (Source: P.A. 90-655, eff. 7-30-98; 91-51, eff. 6-30-99.)

3 Section 25. The Service Occupation Tax Act is amended by
4 changing Section 15 as follows:

5 (35 ILCS 115/15) (from Ch. 120, par. 439.115)

6 Sec. 15. When the amount due is under \$300, any person
7 subject to the provisions hereof who fails to file a return, or
8 who violates any other provision of Section 9 or Section 10
9 hereof, or who fails to keep books and records as required
10 herein, or who files a fraudulent return, or who wilfully
11 violates any Rule or Regulation of the Department for the
12 administration and enforcement of the provisions hereof, or any
13 officer or agent of a corporation, or manager, member, or agent
14 of a limited liability company, subject hereto who signs a
15 fraudulent return filed on behalf of such corporation or
16 limited liability company, or any accountant or other agent who
17 knowingly enters false information on the return of any
18 taxpayer under this Act, or any person who violates any of the
19 provisions of Sections 3, 5 or 7 hereof, or any purchaser who
20 obtains a registration number or resale number from the
21 Department through misrepresentation, or who represents to a
22 seller that such purchaser has a registration number or a
23 resale number from the Department when he knows that he does
24 not, or who uses his registration number or resale number to

1 make a seller believe that he is buying tangible personal
2 property for resale when such purchaser in fact knows that this
3 is not the case, is guilty of a Class 4 felony.

4 Any person who violates any provision of Section 6 hereof,
5 or who engages in the business of making sales of service after
6 his Certificate of Registration under this Act has been revoked
7 in accordance with Section 12 of this Act, is guilty of a Class
8 4 felony. Each day any such person is engaged in business in
9 violation of Section 6, or after his Certificate of
10 Registration under this Act has been revoked, constitutes a
11 separate offense.

12 When the amount due is under \$300, any person who accepts
13 money that is due to the Department under this Act from a
14 taxpayer for the purpose of acting as the taxpayer's agent to
15 make the payment to the Department, but who fails to remit such
16 payment to the Department when due is guilty of a Class 4
17 felony. Any such person who purports to make such payment by
18 issuing or delivering a check or other order upon a real or
19 fictitious depository for the payment of money, knowing that it
20 will not be paid by the depository, shall be guilty of a
21 deceptive practice in violation of Section 17-1 of the Criminal
22 Code of 1961, as amended.

23 When the amount due is \$300 or more, any person subject to
24 the provisions hereof who fails to file a return, or who
25 violates any other provision of Section 9 or Section 10 hereof,
26 or who fails to keep books and records as required herein, or

1 who files a fraudulent return, or who wilfully violates any
2 rule or regulation of the Department for the administration and
3 enforcement of the provisions hereof, or any officer or agent
4 of a corporation, or manager, member, or agent of a limited
5 liability company, subject hereto who signs a fraudulent return
6 filed on behalf of such corporation or limited liability
7 company, or any accountant or other agent who knowingly enters
8 false information on the return of any taxpayer under this Act,
9 or any person who violates any of the provisions of Sections 3,
10 5 or 7 hereof, or any purchaser who obtains a registration
11 number or resale number from the Department through
12 misrepresentation, or who represents to a seller that such
13 purchaser has a registration number or a resale number from the
14 Department when he knows that he does not, or who uses his
15 registration number or resale number to make a seller believe
16 that he is buying tangible personal property for resale when
17 such purchaser in fact knows that this is not the case, is
18 guilty of a Class 3 felony.

19 When the amount due is \$300 or more, any person who accepts
20 money that is due to the Department under this Act from a
21 taxpayer for the purpose of acting as the taxpayer's agent to
22 make the payment to the Department but who fails to remit such
23 payment to the Department when due is guilty of a Class 3
24 felony. Any such person who purports to make such payment by
25 issuing or delivering a check or other order upon a real or
26 fictitious depository for the payment of money, knowing that it

1 will not be paid by the depository shall be guilty of a
2 deceptive practice in violation of Section 17-1 of the Criminal
3 Code of 1961, as amended.

4 Any serviceman who collects or attempts to collect Service
5 Occupation Tax, measured by receipts which such serviceman
6 knows are not subject to Service Occupation Tax, or any
7 serviceman who collects or attempts to collect an amount
8 (however designated) which purports to reimburse such
9 serviceman for Service Occupation Tax liability measured by
10 receipts or selling prices which such serviceman knows are not
11 subject to Service Occupation Tax, or any serviceman who
12 knowingly over-collects or attempts to over-collect Service
13 Occupation Tax or an amount purporting to be reimbursement for
14 Service Occupation Tax liability in a transaction which is
15 subject to the tax that is imposed by this Act, shall be guilty
16 of a Class 4 felony for each such offense. This paragraph does
17 not apply to an amount collected by the serviceman as
18 reimbursement for the serviceman's Service Occupation Tax
19 liability on receipts or selling prices which are subject to
20 tax under this Act, as long as such collection is made in
21 compliance with the tax collection brackets prescribed by the
22 Department in its Rules and Regulations.

23 A prosecution for any act in violation of this Section may
24 be commenced at any time within 6 ~~3~~ years of the commission of
25 that act.

26 This Section does not apply if the violation in a

1 particular case also constitutes a criminal violation of the
2 Retailers' Occupation Tax Act or the Use Tax Act.

3 (Source: P.A. 91-51, eff. 6-30-99.)

4 Section 30. The Retailers' Occupation Tax Act is amended by
5 changing Section 13 as follows:

6 (35 ILCS 120/13) (from Ch. 120, par. 452)

7 Sec. 13. When the amount due is under \$300, any person
8 engaged in the business of selling tangible personal property
9 at retail in this State who fails to file a return, or who
10 files a fraudulent return, or any officer, employee or agent of
11 a corporation, member, employee or agent of a partnership, or
12 manager, member, agent, or employee of a limited liability
13 company engaged in the business of selling tangible personal
14 property at retail in this State who, as such officer,
15 employee, agent, manager, or member is under a duty to file a
16 return, or any officer, agent or employee of a corporation,
17 member, agent, or employee of a partnership, or manager,
18 member, agent, or employee of a limited liability company
19 engaged in the business of selling tangible personal property
20 at retail in this State who files or causes to be filed or
21 signs or causes to be signed a fraudulent return filed on
22 behalf of such corporation or limited liability company, or any
23 accountant or other agent who knowingly enters false
24 information on the return of any taxpayer under this Act, is

1 guilty of a Class 4 felony.

2 Any person who or any officer or director of any
3 corporation, partner or member of any partnership, or manager
4 or member of a limited liability company that: (a) violates
5 Section 2a of this Act or (b) fails to keep books and records,
6 or fails to produce books and records as required by Section 7
7 or (c) willfully violates a rule or regulation of the
8 Department for the administration and enforcement of this Act
9 is guilty of a Class A misdemeanor. Any person, manager or
10 member of a limited liability company, or officer or director
11 of any corporation who engages in the business of selling
12 tangible personal property at retail after the certificate of
13 registration of that person, corporation, limited liability
14 company, or partnership has been revoked is guilty of a Class A
15 misdemeanor. Each day such person, corporation, or partnership
16 is engaged in business without a certificate of registration or
17 after the certificate of registration of that person,
18 corporation, or partnership has been revoked constitutes a
19 separate offense.

20 Any purchaser who obtains a registration number or resale
21 number from the Department through misrepresentation, or who
22 represents to a seller that such purchaser has a registration
23 number or a resale number from the Department when he knows
24 that he does not, or who uses his registration number or resale
25 number to make a seller believe that he is buying tangible
26 personal property for resale when such purchaser in fact knows

1 that this is not the case is guilty of a Class 4 felony.

2 Any distributor, supplier or other reseller of motor fuel
3 registered pursuant to Section 2a or 2c of this Act who fails
4 to collect the prepaid tax on invoiced gallons of motor fuel
5 sold or who fails to deliver a statement of tax paid to the
6 purchaser or to the Department as required by Sections 2d and
7 2e of this Act, respectively, shall be guilty of a Class A
8 misdemeanor if the amount due is under \$300, and a Class 4
9 felony if the amount due is \$300 or more.

10 When the amount due is under \$300, any person who accepts
11 money that is due to the Department under this Act from a
12 taxpayer for the purpose of acting as the taxpayer's agent to
13 make the payment to the Department, but who fails to remit such
14 payment to the Department when due is guilty of a Class 4
15 felony.

16 Any seller who collects or attempts to collect an amount
17 (however designated) which purports to reimburse such seller
18 for retailers' occupation tax liability measured by receipts
19 which such seller knows are not subject to retailers'
20 occupation tax, or any seller who knowingly over-collects or
21 attempts to over-collect an amount purporting to reimburse such
22 seller for retailers' occupation tax liability in a transaction
23 which is subject to the tax that is imposed by this Act, shall
24 be guilty of a Class 4 felony for each such offense. This
25 paragraph does not apply to an amount collected by the seller
26 as reimbursement for the seller's retailers' occupation tax

1 liability on receipts which are subject to tax under this Act
2 as long as such collection is made in compliance with the tax
3 collection brackets prescribed by the Department in its Rules
4 and Regulations.

5 When the amount due is \$300 or more, any person engaged in
6 the business of selling tangible personal property at retail in
7 this State who fails to file a return, or who files a
8 fraudulent return, or any officer, employee or agent of a
9 corporation, member, employee or agent of a partnership, or
10 manager, member, agent, or employee of a limited liability
11 company engaged in the business of selling tangible personal
12 property at retail in this State who, as such officer,
13 employee, agent, manager, or member is under a duty to file a
14 return and who fails to file such return or any officer, agent,
15 or employee of a corporation, member, agent or employee of a
16 partnership, or manager, member, agent, or employee of a
17 limited liability company engaged in the business of selling
18 tangible personal property at retail in this State who files or
19 causes to be filed or signs or causes to be signed a fraudulent
20 return filed on behalf of such corporation or limited liability
21 company, or any accountant or other agent who knowingly enters
22 false information on the return of any taxpayer under this Act
23 is guilty of a Class 3 felony.

24 When the amount due is \$300 or more, any person engaged in
25 the business of selling tangible personal property at retail in
26 this State who accepts money that is due to the Department

1 under this Act from a taxpayer for the purpose of acting as the
2 taxpayer's agent to make payment to the Department but fails to
3 remit such payment to the Department when due, is guilty of a
4 Class 3 felony.

5 Any person whose principal place of business is in this
6 State and who is charged with a violation under this Section
7 shall be tried in the county where his principal place of
8 business is located unless he asserts a right to be tried in
9 another venue.

10 Any taxpayer or agent of a taxpayer who with the intent to
11 defraud purports to make a payment due to the Department by
12 issuing or delivering a check or other order upon a real or
13 fictitious depository for the payment of money, knowing that it
14 will not be paid by the depository, shall be guilty of a
15 deceptive practice in violation of Section 17-1 of the Criminal
16 Code of 1961, as amended.

17 A prosecution for any act in violation of this Section may
18 be commenced at any time within 6 ~~3~~ years of the commission of
19 that act.

20 (Source: P.A. 87-879; 88-480.)

21 Section 35. The Coin-Operated Amusement Device and
22 Redemption Machine Tax Act is amended by changing Sections 1,
23 8, 14, and 15 as follows:

24 (35 ILCS 510/1) (from Ch. 120, par. 481b.1)

1 Sec. 1. There is imposed, on the privilege of operating
2 every coin-in-the-slot-operated amusement device, including a
3 device operated or operable by insertion of coins, bills, other
4 money, tokens, tickets, chips, debit cards, or similar objects,
5 in this State which returns to the player thereof no money or
6 property or right to receive money or property, and on the
7 privilege of operating in this State a redemption machine as
8 defined in Section 28-2 of the Criminal Code of 1961, an annual
9 privilege tax of \$30 for each device for a period beginning on
10 or after August 1 of any year and prior to August 1 of the
11 succeeding year.

12 (Source: P.A. 93-32, eff. 7-1-03.)

13 (35 ILCS 510/8) (from Ch. 120, par. 481b.8)

14 Sec. 8. Any person operating or displaying any device
15 described in this Act in such manner that it could be played by
16 the public without the tax imposed by this Act having first
17 been paid shall be guilty of a Class A € misdemeanor. The use
18 or operation for other than amusement purposes of any device
19 taxed as in this Act provided shall be a Class A € misdemeanor.

20 (Source: P.A. 83-1428.)

21 (35 ILCS 510/14) (from Ch. 120, par. 481b.14)

22 Sec. 14. After seizing any coin-in-the-slot-operated
23 amusement device, as provided in Section 13 of this Act, the
24 Department shall hold a hearing in the county where such

1 amusement device was seized and shall determine whether such
2 amusement device was being displayed in a manner which violates
3 any provision of this Act.

4 The Department shall give not less than 7 days' notice of
5 the time and place of such hearing to the owner of such
6 amusement device if he is known, and also to the person in
7 whose possession the amusement device so taken was found, if
8 such person is known and if such person in possession is not
9 the owner of said amusement device.

10 In case neither the owner nor the person in possession of
11 such amusement device is known, the Department shall cause
12 publication of the time and place of such hearing to be made at
13 least once in each week for 3 weeks successively in a newspaper
14 of general circulation in the county where such hearing is to
15 be held.

16 If, as the result of such hearing, the Department shall
17 determine that the amusement device seized was, at the time of
18 seizure, being displayed in a manner which violates this Act,
19 the Department shall enter an order declaring such amusement
20 device confiscated and forfeited to the State, and to be sold
21 by the Department in the manner provided for hereinafter in
22 this Section. The Department shall give notice of such order to
23 the owner of such amusement device if he is known, and also to
24 the person in whose possession the amusement device so taken
25 was found, if such person is known and if such person in
26 possession is not the owner of such amusement device. In case

1 neither the owner nor the person in possession of such
2 amusement device is known, the Department shall cause
3 publication of such order to be made at least once in each week
4 for 3 weeks successively in a newspaper of general circulation
5 in the county where such hearing was held.

6 The person from whom such amusement device has been seized
7 (or the owner of such device if that is a different person) may
8 redeem and reclaim such device by paying~~7~~ to the Department,
9 within 30 days after the Department's order of confiscation and
10 forfeiture becomes final, ~~an amount equal to twice the annual~~
11 ~~tax applicable to such amusement device, plus~~ a penalty of
12 \$2,500 for each device, which shall be deposited into the Tax
13 Compliance and Administration Fund 10%.

14 When any amusement device shall have been declared
15 forfeited to the State by the Department, as provided in this
16 Section, and when all proceedings for the judicial review of
17 the Department's decision have terminated, the Department
18 shall (if such amusement device is not redeemed and reclaimed
19 within the time and in the manner provided for in this
20 Section), to the extent that its decision is sustained on
21 review, sell such amusement device for the best price
22 obtainable and shall forthwith pay over the proceeds of such
23 sale to the State Treasurer; provided, however, that if the
24 value of the property to be sold at any one time shall be
25 \$500.00 or more, such property shall be sold only to the
26 highest and best bidder on such terms and conditions and on

1 open competitive bidding after public advertisement, in such
2 manner and for such terms as the Department, by rule, may
3 prescribe.

4 If no complaint for review, as provided in Section 10 of
5 this Act, has been filed within the time required by the
6 Administrative Review Law, and if such amusement device is not
7 redeemed and reclaimed within the time and in the manner
8 provided for in this Section, the Department shall proceed to
9 sell said property for the best price obtainable and shall
10 forthwith pay over the proceeds of such sale to the State
11 Treasurer; provided, however, that if the value of the property
12 to be sold at any one time shall be \$500.00 or more, such
13 property shall be sold only to the highest and best bidder on
14 such terms and conditions and on open competitive bidding after
15 public advertisement, in such manner and for such terms as the
16 Department, by rule, may prescribe.

17 (Source: P.A. 82-783.)

18 (35 ILCS 510/15) (from Ch. 120, par. 481b.15)

19 Sec. 15. Whenever any peace officer of the State or any
20 duly authorized officer or employee of the Department shall
21 have reason to believe that any violation of this Act has
22 occurred and that the person so violating the Act has in his,
23 her or its possession any amusement device which is being
24 displayed in a manner which violates this Act, he may file or
25 cause to be filed his complaint in writing, verified by

1 affidavit, with any court within whose jurisdiction the
2 premises to be searched are situated, stating the facts upon
3 which such belief is founded, the premises to be searched, and
4 the property to be seized, and procure a search warrant and
5 execute the same.

6 Upon the execution of such search warrant, the peace
7 officer, or officer or employee of the Department, executing
8 such search warrant shall make due return thereof to the court
9 issuing the same, together with an inventory of the property
10 taken thereunder. The court shall thereupon issue process
11 against the owner of such property if he is known; otherwise,
12 such process shall be issued against the person in whose
13 possession the property so taken is found, if such person is
14 known.

15 In case of inability to serve such process upon the owner
16 or the person in possession of the property at the time of its
17 seizure, as hereinbefore provided, notice of the proceedings
18 before the court shall be given as required by the statutes of
19 the State governing cases of attachment.

20 Upon the return of the process duly served or upon the
21 posting or publishing of notice made, as hereinabove provided,
22 the court or jury, if a jury shall be demanded, shall proceed
23 to determine whether or not such property so seized was
24 displayed in violation of this Act. In case of a finding that
25 the amusement device seized was, at the time of seizure, being
26 displayed in violation of this Act, judgment shall be entered

1 confiscating and forfeiting the property to the State and
2 ordering its delivery to the Department, and in addition
3 thereto, the court shall have power to tax and assess the costs
4 of the proceedings.

5 The person from whom such amusement device has been seized
6 (or the owner of such device if that is a different person) may
7 redeem and reclaim such device by paying⁷ to the Department,
8 within 30 days after the order of confiscation and forfeiture
9 becomes final, ~~an amount equal to twice the annual tax~~
10 ~~applicable to such amusement device, plus~~ a penalty of \$2,500
11 for each device, which shall be deposited into the Tax
12 Compliance and Administration Fund 10%.

13 When any amusement device shall have been declared
14 forfeited to the State by any court, and when such confiscated
15 and forfeited amusement device shall have been delivered to the
16 Department, and if such device is not redeemed and reclaimed
17 within the time and in the manner provided for in this Section,
18 the Department shall sell such amusement device for the best
19 price obtainable and shall forthwith pay over the proceeds of
20 such sale to the State Treasurer; provided, however, that if
21 the value of the property to be sold at any one time shall be
22 \$500.00 or more, such property shall be sold only to the
23 highest and best bidder on such terms and conditions and on
24 open competitive bidding after public advertisement, in such
25 manner and for such terms as the Department, by rule, may
26 prescribe.

1 (Source: Laws 1965, p. 3716.)

2 Section 40. The Uniform Penalty and Interest Act is amended
3 by changing Section 3-3 as follows:

4 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

5 Sec. 3-3. Penalty for failure to file or pay.

6 (a) This subsection (a) is applicable before January 1,
7 1996. A penalty of 5% of the tax required to be shown due on a
8 return shall be imposed for failure to file the tax return on
9 or before the due date prescribed for filing determined with
10 regard for any extension of time for filing (penalty for late
11 filing or nonfiling). If any unprocessable return is corrected
12 and filed within 21 days after notice by the Department, the
13 late filing or nonfiling penalty shall not apply. If a penalty
14 for late filing or nonfiling is imposed in addition to a
15 penalty for late payment, the total penalty due shall be the
16 sum of the late filing penalty and the applicable late payment
17 penalty. Beginning on the effective date of this amendatory Act
18 of 1995, in the case of any type of tax return required to be
19 filed more frequently than annually, when the failure to file
20 the tax return on or before the date prescribed for filing
21 (including any extensions) is shown to be nonfraudulent and has
22 not occurred in the 2 years immediately preceding the failure
23 to file on the prescribed due date, the penalty imposed by
24 Section 3-3(a) shall be abated.

1 (a-5) This subsection (a-5) is applicable to returns due on
2 and after January 1, 1996 and on or before December 31, 2000. A
3 penalty equal to 2% of the tax required to be shown due on a
4 return, up to a maximum amount of \$250, determined without
5 regard to any part of the tax that is paid on time or by any
6 credit that was properly allowable on the date the return was
7 required to be filed, shall be imposed for failure to file the
8 tax return on or before the due date prescribed for filing
9 determined with regard for any extension of time for filing.
10 However, if any return is not filed within 30 days after notice
11 of nonfiling mailed by the Department to the last known address
12 of the taxpayer contained in Department records, an additional
13 penalty amount shall be imposed equal to the greater of \$250 or
14 2% of the tax shown on the return. However, the additional
15 penalty amount may not exceed \$5,000 and is determined without
16 regard to any part of the tax that is paid on time or by any
17 credit that was properly allowable on the date the return was
18 required to be filed (penalty for late filing or nonfiling). If
19 any unprocessable return is corrected and filed within 30 days
20 after notice by the Department, the late filing or nonfiling
21 penalty shall not apply. If a penalty for late filing or
22 nonfiling is imposed in addition to a penalty for late payment,
23 the total penalty due shall be the sum of the late filing
24 penalty and the applicable late payment penalty. In the case of
25 any type of tax return required to be filed more frequently
26 than annually, when the failure to file the tax return on or

1 before the date prescribed for filing (including any
2 extensions) is shown to be nonfraudulent and has not occurred
3 in the 2 years immediately preceding the failure to file on the
4 prescribed due date, the penalty imposed by Section 3-3(a-5)
5 shall be abated.

6 (a-10) This subsection (a-10) is applicable to returns due
7 on and after January 1, 2001. A penalty equal to 2% of the tax
8 required to be shown due on a return, up to a maximum amount of
9 \$250, reduced by any tax that is paid on time or by any credit
10 that was properly allowable on the date the return was required
11 to be filed, shall be imposed for failure to file the tax
12 return on or before the due date prescribed for filing
13 determined with regard for any extension of time for filing.
14 However, if any return is not filed within 30 days after notice
15 of nonfiling mailed by the Department to the last known address
16 of the taxpayer contained in Department records, an additional
17 penalty amount shall be imposed equal to the greater of \$250 or
18 2% of the tax shown on the return. However, the additional
19 penalty amount may not exceed \$5,000 and is determined without
20 regard to any part of the tax that is paid on time or by any
21 credit that was properly allowable on the date the return was
22 required to be filed (penalty for late filing or nonfiling). If
23 any unprocessable return is corrected and filed within 30 days
24 after notice by the Department, the late filing or nonfiling
25 penalty shall not apply. If a penalty for late filing or
26 nonfiling is imposed in addition to a penalty for late payment,

1 the total penalty due shall be the sum of the late filing
2 penalty and the applicable late payment penalty. In the case of
3 any type of tax return required to be filed more frequently
4 than annually, when the failure to file the tax return on or
5 before the date prescribed for filing (including any
6 extensions) is shown to be nonfraudulent and has not occurred
7 in the 2 years immediately preceding the failure to file on the
8 prescribed due date, the penalty imposed by Section 3-3(a-10)
9 shall be abated.

10 (a-15) In addition to any other penalties imposed by law
11 for the failure to file a return, a penalty of \$100 shall be
12 imposed for failure to file a transaction reporting return
13 required by Section 3 of the Retailers' Occupation Tax Act and
14 Section 9 of the Use Tax Act on or before the date a return is
15 required to be filed. This penalty shall be imposed regardless
16 of whether the return when properly prepared and filed would
17 result in the imposition of a tax.

18 (b) This subsection is applicable before January 1, 1998. A
19 penalty of 15% of the tax shown on the return or the tax
20 required to be shown due on the return shall be imposed for
21 failure to pay:

22 (1) the tax shown due on the return on or before the
23 due date prescribed for payment of that tax, an amount of
24 underpayment of estimated tax, or an amount that is
25 reported in an amended return other than an amended return
26 timely filed as required by subsection (b) of Section 506

1 of the Illinois Income Tax Act (penalty for late payment or
2 nonpayment of admitted liability); or

3 (2) the full amount of any tax required to be shown due
4 on a return and which is not shown (penalty for late
5 payment or nonpayment of additional liability), within 30
6 days after a notice of arithmetic error, notice and demand,
7 or a final assessment is issued by the Department. In the
8 case of a final assessment arising following a protest and
9 hearing, the 30-day period shall not begin until all
10 proceedings in court for review of the final assessment
11 have terminated or the period for obtaining a review has
12 expired without proceedings for a review having been
13 instituted. In the case of a notice of tax liability that
14 becomes a final assessment without a protest and hearing,
15 the penalty provided in this paragraph (2) shall be imposed
16 at the expiration of the period provided for the filing of
17 a protest.

18 (b-5) This subsection is applicable to returns due on and
19 after January 1, 1998 and on or before December 31, 2000. A
20 penalty of 20% of the tax shown on the return or the tax
21 required to be shown due on the return shall be imposed for
22 failure to pay:

23 (1) the tax shown due on the return on or before the
24 due date prescribed for payment of that tax, an amount of
25 underpayment of estimated tax, or an amount that is
26 reported in an amended return other than an amended return

1 timely filed as required by subsection (b) of Section 506
2 of the Illinois Income Tax Act (penalty for late payment or
3 nonpayment of admitted liability); or

4 (2) the full amount of any tax required to be shown due
5 on a return and which is not shown (penalty for late
6 payment or nonpayment of additional liability), within 30
7 days after a notice of arithmetic error, notice and demand,
8 or a final assessment is issued by the Department. In the
9 case of a final assessment arising following a protest and
10 hearing, the 30-day period shall not begin until all
11 proceedings in court for review of the final assessment
12 have terminated or the period for obtaining a review has
13 expired without proceedings for a review having been
14 instituted. In the case of a notice of tax liability that
15 becomes a final assessment without a protest and hearing,
16 the penalty provided in this paragraph (2) shall be imposed
17 at the expiration of the period provided for the filing of
18 a protest.

19 (b-10) This subsection (b-10) is applicable to returns due
20 on and after January 1, 2001 and on or before December 31,
21 2003. A penalty shall be imposed for failure to pay:

22 (1) the tax shown due on a return on or before the due
23 date prescribed for payment of that tax, an amount of
24 underpayment of estimated tax, or an amount that is
25 reported in an amended return other than an amended return
26 timely filed as required by subsection (b) of Section 506

1 of the Illinois Income Tax Act (penalty for late payment or
2 nonpayment of admitted liability). The amount of penalty
3 imposed under this subsection (b-10)(1) shall be 2% of any
4 amount that is paid no later than 30 days after the due
5 date, 5% of any amount that is paid later than 30 days
6 after the due date and not later than 90 days after the due
7 date, 10% of any amount that is paid later than 90 days
8 after the due date and not later than 180 days after the
9 due date, and 15% of any amount that is paid later than 180
10 days after the due date. If notice and demand is made for
11 the payment of any amount of tax due and if the amount due
12 is paid within 30 days after the date of the notice and
13 demand, then the penalty for late payment or nonpayment of
14 admitted liability under this subsection (b-10)(1) on the
15 amount so paid shall not accrue for the period after the
16 date of the notice and demand.

17 (2) the full amount of any tax required to be shown due
18 on a return and that is not shown (penalty for late payment
19 or nonpayment of additional liability), within 30 days
20 after a notice of arithmetic error, notice and demand, or a
21 final assessment is issued by the Department. In the case
22 of a final assessment arising following a protest and
23 hearing, the 30-day period shall not begin until all
24 proceedings in court for review of the final assessment
25 have terminated or the period for obtaining a review has
26 expired without proceedings for a review having been

1 instituted. The amount of penalty imposed under this
2 subsection (b-10) (2) shall be 20% of any amount that is not
3 paid within the 30-day period. In the case of a notice of
4 tax liability that becomes a final assessment without a
5 protest and hearing, the penalty provided in this
6 subsection (b-10) (2) shall be imposed at the expiration of
7 the period provided for the filing of a protest.

8 (b-15) This subsection (b-15) is applicable to returns due
9 on and after January 1, 2004 and on or before December 31,
10 2004. A penalty shall be imposed for failure to pay the tax
11 shown due or required to be shown due on a return on or before
12 the due date prescribed for payment of that tax, an amount of
13 underpayment of estimated tax, or an amount that is reported in
14 an amended return other than an amended return timely filed as
15 required by subsection (b) of Section 506 of the Illinois
16 Income Tax Act (penalty for late payment or nonpayment of
17 admitted liability). The amount of penalty imposed under this
18 subsection (b-15) (1) shall be 2% of any amount that is paid no
19 later than 30 days after the due date, 10% of any amount that
20 is paid later than 30 days after the due date and not later
21 than 90 days after the due date, 15% of any amount that is paid
22 later than 90 days after the due date and not later than 180
23 days after the due date, and 20% of any amount that is paid
24 later than 180 days after the due date. If notice and demand is
25 made for the payment of any amount of tax due and if the amount
26 due is paid within 30 days after the date of this notice and

1 demand, then the penalty for late payment or nonpayment of
2 admitted liability under this subsection (b-15)(1) on the
3 amount so paid shall not accrue for the period after the date
4 of the notice and demand.

5 (b-20) This subsection (b-20) is applicable to returns due
6 on and after January 1, 2005.

7 (1) A penalty shall be imposed for failure to pay,
8 prior to the due date for payment, any amount of tax the
9 payment of which is required to be made prior to the filing
10 of a return or without a return (penalty for late payment
11 or nonpayment of estimated or accelerated tax). The amount
12 of penalty imposed under this paragraph (1) shall be 2% of
13 any amount that is paid no later than 30 days after the due
14 date and 10% of any amount that is paid later than 30 days
15 after the due date.

16 (2) A penalty shall be imposed for failure to pay the
17 tax shown due or required to be shown due on a return on or
18 before the due date prescribed for payment of that tax or
19 an amount that is reported in an amended return other than
20 an amended return timely filed as required by subsection
21 (b) of Section 506 of the Illinois Income Tax Act (penalty
22 for late payment or nonpayment of tax). The amount of
23 penalty imposed under this paragraph (2) shall be 2% of any
24 amount that is paid no later than 30 days after the due
25 date, 10% of any amount that is paid later than 30 days
26 after the due date and prior to the date the Department has

1 initiated an audit or investigation of the taxpayer, and
2 20% of any amount that is paid after the date the
3 Department has initiated an audit or investigation of the
4 taxpayer; provided that the penalty shall be reduced to 15%
5 if the entire amount due is paid not later than 30 days
6 after the Department has provided the taxpayer with an
7 amended return (following completion of an occupation,
8 use, or excise tax audit) or a form for waiver of
9 restrictions on assessment (following completion of an
10 income tax audit); provided further that the reduction to
11 15% shall be rescinded if the taxpayer makes any claim for
12 refund or credit of the tax, penalties, or interest
13 determined to be due upon audit, except in the case of a
14 claim filed pursuant to subsection (b) of Section 506 of
15 the Illinois Income Tax Act or to claim a carryover of a
16 loss or credit, the availability of which was not
17 determined in the audit. For purposes of this paragraph
18 (2), any overpayment reported on an original return that
19 has been allowed as a refund or credit to the taxpayer
20 shall be deemed to have not been paid on or before the due
21 date for payment and any amount paid under protest pursuant
22 to the provisions of the State Officers and Employees Money
23 Disposition Act shall be deemed to have been paid after the
24 Department has initiated an audit and more than 30 days
25 after the Department has provided the taxpayer with an
26 amended return (following completion of an occupation,

1 use, or excise tax audit) or a form for waiver of
2 restrictions on assessment (following completion of an
3 income tax audit).

4 (3) The penalty imposed under this subsection (b-20)
5 shall be deemed assessed at the time the tax upon which the
6 penalty is computed is assessed, except that, if the
7 reduction of the penalty imposed under paragraph (2) of
8 this subsection (b-20) to 15% is rescinded because a claim
9 for refund or credit has been filed, the increase in
10 penalty shall be deemed assessed at the time the claim for
11 refund or credit is filed.

12 (c) For purposes of the late payment penalties, the basis
13 of the penalty shall be the tax shown or required to be shown
14 on a return, whichever is applicable, reduced by any part of
15 the tax which is paid on time and by any credit which was
16 properly allowable on the date the return was required to be
17 filed.

18 (d) A penalty shall be applied to the tax required to be
19 shown even if that amount is less than the tax shown on the
20 return.

21 (e) This subsection (e) is applicable to returns due before
22 January 1, 2001. If both a subsection (b)(1) or (b-5)(1)
23 penalty and a subsection (b)(2) or (b-5)(2) penalty are
24 assessed against the same return, the subsection (b)(2) or
25 (b-5)(2) penalty shall be assessed against only the additional
26 tax found to be due.

1 (e-5) This subsection (e-5) is applicable to returns due on
2 and after January 1, 2001. If both a subsection (b-10)(1)
3 penalty and a subsection (b-10)(2) penalty are assessed against
4 the same return, the subsection (b-10)(2) penalty shall be
5 assessed against only the additional tax found to be due.

6 (f) If the taxpayer has failed to file the return, the
7 Department shall determine the correct tax according to its
8 best judgment and information, which amount shall be prima
9 facie evidence of the correctness of the tax due.

10 (g) The time within which to file a return or pay an amount
11 of tax due without imposition of a penalty does not extend the
12 time within which to file a protest to a notice of tax
13 liability or a notice of deficiency.

14 (h) No return shall be determined to be unprocessable
15 because of the omission of any information requested on the
16 return pursuant to Section 2505-575 of the Department of
17 Revenue Law (20 ILCS 2505/2505-575).

18 (i) If a taxpayer has a tax liability that is eligible for
19 amnesty under the Tax Delinquency Amnesty Act and the taxpayer
20 fails to satisfy the tax liability during the amnesty period
21 provided for in that Act, then the penalty imposed by the
22 Department under this Section shall be imposed in an amount
23 that is 200% of the amount that would otherwise be imposed
24 under this Section.

25 (Source: P.A. 92-742, eff. 7-25-02; 93-26, eff. 6-20-03; 93-32,
26 eff. 6-20-03; 93-1068, eff. 1-15-05.)

1 Section 45. The Criminal Code of 1961 is amended by
2 changing Section 28-2 as follows:

3 (720 ILCS 5/28-2) (from Ch. 38, par. 28-2)

4 (Text of Section before amendment by P.A. 95-676)

5 Sec. 28-2. Definitions.

6 (a) A "gambling device" is any clock, tape machine, slot
7 machine or other machines or device for the reception of money
8 or other thing of value on chance or skill or upon the action
9 of which money or other thing of value is staked, hazarded,
10 bet, won or lost; or any mechanism, furniture, fixture,
11 equipment or other device designed primarily for use in a
12 gambling place. A "gambling device" does not include:

13 (1) A coin-in-the-slot operated mechanical device
14 played for amusement which rewards the player with the
15 right to replay such mechanical device, which device is so
16 constructed or devised as to make such result of the
17 operation thereof depend in part upon the skill of the
18 player and which returns to the player thereof no money,
19 property or right to receive money or property.

20 (2) Vending machines by which full and adequate return
21 is made for the money invested and in which there is no
22 element of chance or hazard.

23 (3) A crane game. For the purposes of this paragraph
24 (3), a "crane game" is an amusement device involving skill,

1 if it rewards the player exclusively with merchandise
2 contained within the amusement device proper and limited to
3 toys, novelties and prizes other than currency, each having
4 a wholesale value which is not more than 7 times the cost
5 charged to play the amusement device once or \$5, whichever
6 is less.

7 (4) A redemption machine. For the purposes of this
8 paragraph (4), a "redemption machine" is (1) a
9 single-player or multi-player amusement device involving a
10 game, the object of which is throwing, rolling, bowling,
11 shooting, placing, or propelling a ball or other object
12 into, upon, or against a hole or other target or (2) a
13 device of any kind or character used by the public that is
14 designed and manufactured for bonafide amusement or
15 entertainment purposes, the operation of which requires
16 the payment of or the insertion of coins, bills, other
17 money, tokens, tickets, chips, debit cards, or similar
18 objects, provided that all of the following conditions are
19 met:

20 (A) The device awards the player only with the
21 right to replay the device or with awards, tokens, or
22 tickets redeemable for noncash merchandise. For the
23 purpose of this item (A), "merchandise" does not
24 include cash or alcoholic beverages. ~~The outcome of the~~
25 ~~game is predominantly determined by the skill of the~~
26 ~~player.~~

1 ~~(B) The award of the prize is based solely upon the~~
2 ~~player's achieving the object of the game or otherwise~~
3 ~~upon the player's score.~~

4 ~~(C) Only merchandise prizes are awarded.~~

5 (B) ~~(D)~~ The average wholesale value of prizes
6 awarded in lieu of tickets or tokens for single play of
7 the device does not exceed the lesser of \$5 or 7 times
8 the cost charged for a single play of the device.

9 (C) ~~(E)~~ The redemption value of each ticket, token,
10 or other representation ~~tickets, tokens, and other~~
11 ~~representations~~ of value, which may be accumulated by
12 players to redeem prizes of greater value, does not
13 exceed the amount charged for a single play of the
14 device. However, if multiple tickets, tokens, and
15 other representations of value are awarded for a single
16 play of the device, the total value of all tickets,
17 tokens, and other representations of value awarded may
18 not exceed the amount charged for a single play of the
19 device.

20 This paragraph (4) does not apply to any game or device
21 classified by the United States government as requiring a
22 federal gaming tax stamp under applicable provisions of the
23 Internal Revenue Code.

24 (a-5) "Internet" means an interactive computer service or
25 system or an information service, system, or access software
26 provider that provides or enables computer access by multiple

1 users to a computer server, and includes, but is not limited
2 to, an information service, system, or access software provider
3 that provides access to a network system commonly known as the
4 Internet, or any comparable system or service and also
5 includes, but is not limited to, a World Wide Web page,
6 newsgroup, message board, mailing list, or chat area on any
7 interactive computer service or system or other online service.

8 (a-6) "Access" and "computer" have the meanings ascribed to
9 them in Section 16D-2 of this Code.

10 (b) A "lottery" is any scheme or procedure whereby one or
11 more prizes are distributed by chance among persons who have
12 paid or promised consideration for a chance to win such prizes,
13 whether such scheme or procedure is called a lottery, raffle,
14 gift, sale or some other name.

15 (c) A "policy game" is any scheme or procedure whereby a
16 person promises or guarantees by any instrument, bill,
17 certificate, writing, token or other device that any particular
18 number, character, ticket or certificate shall in the event of
19 any contingency in the nature of a lottery entitle the
20 purchaser or holder to receive money, property or evidence of
21 debt.

22 (Source: P.A. 91-257, eff. 1-1-00.)

23 (Text of Section after amendment by P.A. 95-676)

24 Sec. 28-2. Definitions.

25 (a) A "gambling device" is any clock, tape machine, slot

1 machine or other machines or device for the reception of money
2 or other thing of value on chance or skill or upon the action
3 of which money or other thing of value is staked, hazarded,
4 bet, won or lost; or any mechanism, furniture, fixture,
5 equipment or other device designed primarily for use in a
6 gambling place. A "gambling device" does not include:

7 (1) A coin-in-the-slot operated mechanical device
8 played for amusement which rewards the player with the
9 right to replay such mechanical device, which device is so
10 constructed or devised as to make such result of the
11 operation thereof depend in part upon the skill of the
12 player and which returns to the player thereof no money,
13 property or right to receive money or property.

14 (2) Vending machines by which full and adequate return
15 is made for the money invested and in which there is no
16 element of chance or hazard.

17 (3) A crane game. For the purposes of this paragraph
18 (3), a "crane game" is an amusement device involving skill,
19 if it rewards the player exclusively with merchandise
20 contained within the amusement device proper and limited to
21 toys, novelties and prizes other than currency, each having
22 a wholesale value which is not more than \$25.

23 (4) A redemption machine. For the purposes of this
24 paragraph (4), a "redemption machine" is (1) a
25 single-player or multi-player amusement device involving a
26 game, the object of which is throwing, rolling, bowling,

1 shooting, placing, or propelling a ball or other object
2 into, upon, or against a hole or other target or (2) a
3 device of any kind or character used by the public that is
4 designed and manufactured for bonafide amusement or
5 entertainment purposes, the operation of which requires
6 the payment of or the insertion of coins, bills, other
7 money, tokens, tickets, chips, debit cards, or similar
8 objects, provided that all of the following conditions are
9 met:

10 (A) The device awards the player only with the
11 right to replay the device or with awards, tokens, or
12 tickets redeemable for noncash merchandise. For the
13 purpose of this item (A), "merchandise" does not
14 include cash or alcoholic beverages. ~~The outcome of the~~
15 ~~game is predominantly determined by the skill of the~~
16 ~~player.~~

17 ~~(B) The award of the prize is based solely upon the~~
18 ~~player's achieving the object of the game or otherwise~~
19 ~~upon the player's score.~~

20 ~~(C) Only merchandise prizes are awarded.~~

21 (B) ~~(D)~~ The wholesale value of prizes awarded in
22 lieu of tickets or tokens for single play of the device
23 does not exceed \$25.

24 (C) ~~(E)~~ The redemption value of each ticket, token,
25 or other representation ~~tickets, tokens, and other~~
26 ~~representations~~ of value, which may be accumulated by

1 players to redeem prizes of greater value, does not
2 exceed the amount charged for a single play of the
3 device. However, if multiple tickets, tokens, and
4 other representations of value are awarded for a single
5 play of the device, the total value of all tickets,
6 tokens, and other representations of value awarded may
7 not exceed the amount charged for a single play of the
8 device.

9 This paragraph (4) does not apply to any game or device
10 classified by the United States government as requiring a
11 federal gaming tax stamp under applicable provisions of the
12 Internal Revenue Code.

13 (a-5) "Internet" means an interactive computer service or
14 system or an information service, system, or access software
15 provider that provides or enables computer access by multiple
16 users to a computer server, and includes, but is not limited
17 to, an information service, system, or access software provider
18 that provides access to a network system commonly known as the
19 Internet, or any comparable system or service and also
20 includes, but is not limited to, a World Wide Web page,
21 newsgroup, message board, mailing list, or chat area on any
22 interactive computer service or system or other online service.

23 (a-6) "Access" and "computer" have the meanings ascribed to
24 them in Section 16D-2 of this Code.

25 (b) A "lottery" is any scheme or procedure whereby one or
26 more prizes are distributed by chance among persons who have

1 paid or promised consideration for a chance to win such prizes,
2 whether such scheme or procedure is called a lottery, raffle,
3 gift, sale or some other name.

4 (c) A "policy game" is any scheme or procedure whereby a
5 person promises or guarantees by any instrument, bill,
6 certificate, writing, token or other device that any particular
7 number, character, ticket or certificate shall in the event of
8 any contingency in the nature of a lottery entitle the
9 purchaser or holder to receive money, property or evidence of
10 debt.

11 (Source: P.A. 95-676, eff. 6-1-08.)

12 Section 95. No acceleration or delay. Where this Act makes
13 changes in a statute that is represented in this Act by text
14 that is not yet or no longer in effect (for example, a Section
15 represented by multiple versions), the use of that text does
16 not accelerate or delay the taking effect of (i) the changes
17 made by this Act or (ii) provisions derived from any other
18 Public Act.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	20 ILCS 2505/2505-310	was 20 ILCS 2505/39b15.2
4	30 ILCS 105/13.3	from Ch. 127, par. 149.3
5	35 ILCS 105/14	from Ch. 120, par. 439.14
6	35 ILCS 110/15	from Ch. 120, par. 439.45
7	35 ILCS 115/15	from Ch. 120, par. 439.115
8	35 ILCS 120/13	from Ch. 120, par. 452
9	35 ILCS 510/1	from Ch. 120, par. 481b.1
10	35 ILCS 510/8	from Ch. 120, par. 481b.8
11	35 ILCS 510/14	from Ch. 120, par. 481b.14
12	35 ILCS 510/15	from Ch. 120, par. 481b.15
13	35 ILCS 735/3-3	from Ch. 120, par. 2603-3
14	720 ILCS 5/28-2	from Ch. 38, par. 28-2